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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,093	01/02/2001	Jonathan L. Lei	23803-250394	1317

7590

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,093

Applicant(s)

LEI, JONATHAN L.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 84-92 and 105-113 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 84-92 and 105-113 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on May 11, 2005.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. **Claims 84-92 and 105-113 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 84 and 105 recites the limitation "transaction participants". It is unclear who are the transaction participants in the claimed invention since the specification shows interaction between the user and the remote mobile system and interaction between users. Therefore, in order to continue with the examination, the examiner would give the broadest interpretation.

Also, claims 84 and 105 recites the limitations "the machine readable program code having instructions, which when executed cause a wireless communicating electronic device to facilitate interaction between the transaction participants and the self-contained business transaction capsule; facilitate modification of the wireless business transaction; and allow transfer of the entire self contained business transaction capsule from the wireless communicating electronic device to other transaction participants wireless electronic devices utilizing wireless communications" (claim 84 lines 6-15 and claim 105 lines 9-17).

The claim language is not clear on how the instructions could facilitate the interaction between the transaction participants and the self-contained business transaction capsule and the modification of the wireless business transaction.

Furthermore, the claim language is not clear on how the instructions would allow the transfer of the entire self contained business transaction capsule from the wireless communicating electronic device to other transaction participants wireless electronic devices utilizing wireless communications.

Also, as to claims 91,92,112 and 113, the claims recites that the event to activate the capsule is arriving in an area where a wireless networking protocol that utilizes short-range radio waves is operating and that the event is arriving in an area where a device is broadcasting other self-contained business transaction capsules. However, it is unclear how those limitations are related to the transaction between the transaction participants, as claimed in claim 84, and what is the event. Therefore, in order to continue with the examination, the claims will be given the broadest interpretation.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 84-90 and 105-111 are rejected** under 35 U.S.C. 102(b) as being anticipated by Amazon.com (Amazon).

Regarding claims 84 and 105, Amazon discloses a self-contained business transaction capsule (downloadable software application) comprising a machine-readable storage medium including data regarding transaction products (any product searched in Amazon or the software application data), transaction services (payments or what the software application allow the user to do), and transaction participants (anyone).

The capsule further comprises machine readable program code, stored on the machine readable storage medium, having instructions, which when executed, causes a wireless communicating electronic device (Palm device) to facilitate interaction between the transaction participants and the capsule (anyone with the software); facilitate modification of the wireless business transaction (select quantity, another shipping direction, etc); and allow the transfer of the entire capsule from the wireless communicating electronic device to other participants wireless electronic devices utilizing wireless communications (beam the entire software to another Palm device, page 4 point 12).

As to claims 85 and 106, Amazon discloses that the capsule includes instructions, which when executed, cause the wireless communicating electronic device to copy the capsule to other participants (beam the entire software to another Palm device, page 4 point 12).

As to claims 86,87,107 and 108, Amazon discloses that the transmission is peer to peer (page 4 point 12).

As to claims 88 and 109, Amazon discloses that the capsule include instructions, that when executed, cause the wireless communicating electronic device to access functionally in a remote mobile commerce system (the Amazon website) for order processing, payment processing, or messaging utilizing a client-server topology for data transmission.

As to claims 89 and 110, Amazon discloses the capsule include instructions, that when executed, cause the wireless communicating electronic device (Palm device of a user to access functionally in a remote mobile commerce system (the Palm device of another user) for order processing, payment processing, or messaging utilizing a client-server topology for transmission of the entire self-contained capsule from the wireless device to the remote mobile commerce system (sending the software application is considered as sending a message).

As to claims 90 and 111, Amazon discloses that the capsule automatically activates once a certain event occurs (after the user properly download the application software).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 91, 92, 112, and 113 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Amazon.com (Amazon) in view of Bluetooth.

Amazon fails to disclose the use of short-range radio waves. Amazon discloses that any wireless portable electronic device can be used (cellular, palm, etc).

Bluetooth teaches that is known in the art to have a portable electronic device of short-range.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a Bluetooth wireless networking protocol, as taught by Bluetooth, into a portable electronic system as described by Amazon, in order to have a better communication.

Response to Arguments

8. The current amendment overcomes the rejection of the claims in view of Tryllian, Sarbin, and Stuckert.

However, after reviewing the claim language, the examiner believes that the Amazon reference reads on the claimed subject matter.

Previously, the applicant argues that Amazon fails to disclose the entire transfer of the capsule to another transaction participant, specifically, to transmit the entire capsule back to the server (Pages 7 and 8 of remarks filed on December 13, 2004).

However, the applicant fails to clearly express who is the transaction participants intended to be in the transaction as claimed in claims 84 and 105.

At the instant, Amazon discloses the transfer of the entire capsule, the software application, from one device to another device (point 12) between "transaction participants".

Also, as to claims 89 and 110, since the claim language is not clear on defining what is the remote mobile commerce system, as claimed in claims 89 and 110, the other Palm device that receives the software application could be considered as a "remote mobile commerce system".

Conclusion

9. Applicant's amendment, that the transfer of the entire capsule is from one device to another device, as claimed in claims 84 and 105, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo
AU 3676

July 18, 2005

A handwritten signature in dark ink, appearing to read "Brian Glessner", followed by a long horizontal flourish.

BRIAN E. GLESSNER
PRIMARY EXAMINER